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REGIONAL RAILROAD COMMISSIONS: THEIR RELATION TO THE STATE COMMISSIONS AND TO THE INTERSTATE COMMISSION

BY J. E. LOVE

Any possible discussion of this subject will suggest in the mind of the reader, at the outset, doubt as to the situation with respect to regulation that existed when the discussion was prepared. For this reason, let it be understood that the following observations are made in the light of the railroad situation as of January 10, 1918.

The writer would be exceedingly glad to be the author of a suggestion that would relieve or end the troubles of the transportation industry in its relation to the public, or to make such comment upon suggestions already made by others as would materially contribute to that end. Mr. Dooley once remarked that "a real statesman is the man who finds out which way the procession is going and grabs the stick away from the drum major." The writer would be glad to qualify as the statesman to lead the procession of transportation affairs to the goal of satisfactory regulation. But it is for him to join the procession,—not to lead it. The stick is in other hands.

The regional commission idea embraces any jurisdiction broader than that of state lines and narrower than that of complete and exclusive federal jurisdiction. It is given consideration because of discontent with conditions existing heretofore. The advocates of the idea, or of the development of an idea under some such name, fall naturally into two classes: persons who believe that any sort of state regulation heretofore known is bad and contrary to the interests of the country and the industry involved; and persons who believe that state regulation has not failed totally, but has failed in part, and should be superseded, at least in part, by something broader. Those who believe that state regulation, coöordinated to the extent that it has been in the past with federal regulation, has worked satisfactorily or is the best available solution for the problem of promoting and protecting all interests involved, and those who believe the only solution to be exclusive and complete federal control or regulation are not in favor of regional commissions.

Another fact which may as well be stated before discussing suggestions of record on the subject is that, while a condition and not a theory confronts the country today, our subject deals strictly and exclusively with theory. The person who asks the public to listen to a presentation of views on this subject, therefore, runs more or less risk of being interrupted by someone rising to make the point that the subject is not germane to the situation.

Looking into the files we find that discussion touching this subject has been going on for five or six years. The nearest thing to a definite plan results from three or four ideas stated at different times, and suggests a system of regional commissions with working headquarters at various points throughout the country, such commissions to be organized with one of the members of the Interstate Commerce Commission or a person to be appointed by the President as chairman and including one representative from the personnel of the state commissions that are supplemented or supplanted by the regional jurisdiction.

So far as the writer is informed, this plan is the only one offered as anything between dual or state and federal regulation and regulation by the federal government exclusively. What is known as the "Philadelphia plan" and some other suggestions of similar character have received some consideration as offering a solution for problems heretofore troublesome, but they are, universally, predicated upon complete elimination of state regulation of any sort or in any degree. They need not and should not be discussed as suggesting regional commission control.

Writers on the transportation question, especially those openly expressing the feeling of the railroad managers on the subject, have long complained of the burden of responsibility to "forty-nine masters," intending by the interminable reiteration of this complaint to make the public believe that most of the railroads of the country have been accountable to forty-eight state commissions and the Interstate Commerce Commission. The fact that there are but forty-seven state commissions of any character having to do with utility regulation has escaped them, and they have never published a list of railroads subject to as many as nine, not to mention forty-nine, jurisdictions. But there is no use dilating upon this angle of the situation. Readers of this publication understand perfectly that the unfairness and inaccuracy of the complaint re-

ferred to are present in large degree in much of the propaganda in favor of reduced regulation and increased rates with which the country has been surfeited in recent years. But be that as it may, it is urged for the regional commission idea, as above described, that it would reduce the number of "masters" materially and thereby be of advantage.

It is further urged in support of this idea that matters of limited importance, that is, involving only state questions or state interests, would be considered and disposed of alike in all the states of the region if given the benefit of consideration by a regional commission; that uniformity would also be secured in rates, rules and regulations of various states of the regional jurisdiction in which, presumably, transportation conditions would be similar; that the imaginary state lines would be largely eliminated from consideration in dealing with most of the matters involved, resulting in a community of interest between members of state commissions, between the state and interstate commissions and also between the carriers and the various commissions to a far greater extent than has heretofore been the case; and that these results would be accomplished without complete relinquishment of the state control idea, which unquestionably would be relinquished by many states only under the most severe pressure.

To safeguard the federal government in its power over such matters as have heretofore been under exclusive federal control there would, of course, be available an appeal from decisions of the proposed regional commission to the Interstate Commerce Commission as at present constituted, and, as to matters now so appealable, to the Supreme Court of the United States.

Objections to the adoption of any such plan as herein outlined rest chiefly upon the ground that there would be entailed an additional expense of regulation, with further delay in getting results, and that, while a step in the right direction, it does not offer the complete relief that the situation demands. In other words, most of the objectors are in the position of refusing to consider. They desire complete elimination of state commissions and all semblance of state regulation, demand it as a *sine qua non*, and are willing to discuss nothing which in any way preserves that idea.

The writer does not at this time give his personal indorsement to the regional commission idea, nor does he reject it *in toto*. Con-

ditions known heretofore have gone and may never return. His experience and observation have resulted in the conviction, however, that there are questions, hundreds of them every month and thousands of them every year, even in a jurisdiction as limited territorially as that of the Oklahoma Corporation Commission, that can be handled, not only to the best advantage of all concerned, including the railroads, as they have been handled heretofore, by state commissions, but that cannot be handled satisfactorily by any federal board of control located at and operating from any single point. If the state commission is not to be continued as heretofore with power to receive and dispose of complaints arising on a moment's notice and demanding immediate disposal, something in its stead must be provided. That a regional commission organized on any plan that might be devised could handle such matters with satisfaction to the public is possible, but it is exceedingly doubtful.

The part that the state commissions, many of them, have played in bringing about a spirit of popular coöperation in increasing the efficiency of the transportation systems of the country as a war machine has been important, and has been performed more promptly and with better success than could have been accomplished through any governmental agency less local in jurisdiction than the state commission.

Some time before war was declared the Oklahoma commission began safeguarding the communities of this state against coal famine this winter. It induced the purchase of hundreds of cars of coal by dealers in communities that would have suffered acutely before this time had not this effort by the commission been put forth. A federal or even a regional authority could not have secured the ear of the public as it was secured by the state commission, and the results secured had not the state commission been available for the expression of the need of the hour would undoubtedly have been relatively unimportant, if not negligible.

Train service for many towns in Oklahoma has been curtailed; physical connections have been denied; communities have been persuaded to be content with depot facilities clearly inadequate; delivery of cars of fuel or perishables has been expedited; building materials have been searched out in congested yards and hurried to destination with benefit to the contractor, the laborer and the car situation; the urgent need for cars for moving stock has been dis-

covered and the need supplied in scores of instances; and innumerable other complaints of many kinds have been handled informally but effectively with the result that traffic conditions and the financial balance sheet of both the carriers and the shipping public have been benefited. The railroads of Oklahoma have been enabled to do more to win the war because of the activities of the Oklahoma commission. Further, and perhaps even more important, complaint over the extraordinary situation has been brought to an irreducible minimum, converted into cheerful acquiescence, and finally into enthusiastic coöperation on the part of the public. This result has been accomplished, unquestionably, more quickly and more thoroughly than could have been done through any agency other than the state commission. The bearing of these facts upon the regional commission idea will be apparent.

George Ade, the Hoosier humorist, recently remarked, according to the government's daily *Official Bulletin*, that the declaration of a man between 30 and 50 to a man of draft age, that he would be keen to enlist if not too old, would not be believed, even if it were interesting. If the views here expressed by the chairman of a state commission on the subject of a proposal to seriously impair or abolish powers of a tribunal of which he is a member, and of whose value, financial, material and moral, to the public it serves he is perfectly sure, be subject to discount on the ground that the personal factor in the equation is not susceptible of elimination, he suggests merely that the views of other supposed authorities, whose responsibility is different but whose personal interest none the less, be weighed in the same balance.

As already suggested, it is more than likely that conditions heretofore complained of because of too much or too little regulation have gone to return no more. It is inevitable that government control on a military basis will develop benefits that the public will demand be made permanent and will reveal practices that the public will never countenance again. With competition for the first time in American history under the ban of the government, with combines of systems, pooling of traffic and earnings, and many practices heretofore outlawed invoked as the order of the day, the subject of regional commissions for railway regulation becomes so manifestly one susceptible only of speculation and conjecture as to justify leaving it with the reader of *The Annals* for such further consideration as his fancy may dictate.